

UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

ROB FISCHER, as Chairman, and)	
FRANCIS MAZZA, as Secretary)	
of the Dakotas Areawide)	
IBEW/NECA Savings and)	
Retirement Plan and)	Civil No. 3:06-cv-77
each of their successors,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
AMY E. DUNHAM,)	
MATTHEW R. DUNHAM,)	
and DENISE DUNHAM,)	
)	
Defendants.)	

Notice of Hearing and Order

The Plaintiffs, Rob Fischer, as Chairman, and Francis Mazza, as Secretary of Dakotas Areawide IBEW/NECA Savings and Retirement Plan ("Dakotas Areawide") move this Court for an order discharging Dakotas Areawide as plaintiff and stakeholder in this action and awarding it attorney's fees and costs (doc. #8). However, the Court has some concerns it would like addressed before it considers the motion. Specifically, the Court is concerned that Amy Dunham and Matthew Dunham, the children of the decedent and alleged claimants to the decedent's retirement plan, have not appeared in this action. Furthermore, the Court needs more information regarding the cause of delay between the decedent's death and this action, the value of the decedent's fund at the time of the decedent's death and when this action was

filed, and the claim Dakotas Areawide alleges Amy and Matthew Dunham filed with it.

Therefore, the Court **ORDERS** that oral argument be held on Dakotas Areawide's motion on Wednesday, December 27, 2006, at 1:30 pm at the Quentin N. Burdick United States District Courthouse in Fargo, North Dakota, in Courtroom IV. To preserve the adversarial nature of the argument and insure that Amy and Matthew Dunham have notice of their right to appear at the argument, Dakotas Areawide or its attorneys shall do the following:


- Notify Amy Dunham and Matthew Dunham, by letter sent by certified mail with return receipt requested, of their right to appear at the argument and enclose copies of the complaint, Dakotas Areawide's motion, and this order;
- Contact or attempt to contact, in person or by telephone, Amy Dunham and Matthew Dunham, informing them of their right to appear at the argument; and
- File an affidavit stating what measures were taken to complete these tasks.

The Clerk of Court is also directed to mail letters, by first class mail, to Amy Dunham and Matthew Dunham notifying them of their right to appear at the argument, with enclosed copies of the complaint, Dakotas Areawide's motion, and this order. The argument may be held by video conference if one or more of the parties cannot attend in person. Any party wishing to attend the

argument by video conference is instructed to contact the Clerk of Court's office in Fargo, North Dakota.

IT IS SO ORDERED.

Dated this 8th day of December, 2006.


RODNEY S. WEBB, District Judge
United States District Court